

## **Assembly Bill No. 110**

### **CHAPTER 707**

An act to amend Section 121349.3 of, and to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of, the Health and Safety Code, relating to the use of state HIV prevention and education funds for distribution of needles and syringes.

[Approved by Governor October 14, 2007. Filed with  
Secretary of State October 14, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 110, Laird. Drug paraphernalia: clean needle and syringe exchange projects.

(1) Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

Existing law establishes the Office of AIDS in the State Department of Public Health. That office, among other functions, provides funding for AIDS prevention and education.

This bill would authorize a public entity, as defined, that receives General Fund money from the department for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes, subject to specified conditions.

(2) Existing law requires the health officer of the participating jurisdiction to annually present a report on the status of clean needle and syringe exchange programs, including relevant statistics on blood-borne infections.

This bill would require the report to also include the use of public funds for these purposes.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The continuing spread of the acquired immunodeficiency syndrome (AIDS) epidemic and the spread of blood-borne hepatitis pose two of the gravest public health threats in California.

(b) Injection drug users are the second largest group at risk of becoming infected with the human immunodeficiency virus (HIV) and developing AIDS, and they have been the primary source of heterosexual, female, and perinatal transmission in California, the United States, and Europe.

(c) According to the Office of AIDS within the State Department of Public Health, injection drug use continues to be one of the most prevalent risk factors for new HIV and AIDS cases in California. Injection drug users continue to be at high risk of HIV/AIDS and hepatitis infection in California. According to an annual report issued by the Office of AIDS, sharing of contaminated syringes and other injection equipment is linked to 20 percent of all reported AIDS cases in the state through 2003. State data suggests that over 1,500 new syringe-sharing HIV infections occur annually. According to recent studies, researchers estimate that an American infected with HIV can expect to live about 24 years, on average, and that the cost of his or her health care during this time period is more than \$600,000.

(d) Injection drug users are also highly likely to become infected with hepatitis as a result of hypodermic needle and syringe sharing practices.

(e) The Legislature has responded to the spread of HIV and hepatitis among injection drug users by adopting Assembly Bill 136 (Ch. 762, Stats. 1999), that permits localities to determine whether or not to operate clean needle and syringe exchange programs. As a result of that legislation, many localities are now operating these programs.

(f) These programs have been shown to significantly reduce the transmission of HIV and hepatitis among injection drug users, their sexual partners, and children. Moreover, these programs have been effective in moving individuals into substance abuse treatment programs and in reducing the number of used hypodermic needles and syringes disposed of in public places, which pose a threat to public health and safety.

(g) The United States government prohibits the use of federal funds to support the purchase of sterile hypodermic needles and syringes by clean needle and syringe exchange programs. Moreover, the state has not heretofore permitted the use of its funds for the purchase of sterile hypodermic needles and syringes, although current state policy allows state HIV prevention and education funds to be used for costs associated with authorized clean needle and syringe exchange programs, except for the purchase of sterile hypodermic needles and syringes.

(h) The ability of clean needle and syringe exchange programs to purchase an adequate supply of sterile hypodermic needles and syringes is essential to California's ability to further reduce the transmission of HIV and hepatitis and to relieve the public cost for the care and treatment of HIV disease and hepatitis.

SEC. 2. Chapter 1.5 (commencing with Section 120780) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION FUNDS

120780. For purposes of this chapter, “public entity” includes the state, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

120780.1. A public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education may use that money to support clean needle and syringe exchange programs authorized pursuant to existing law. The money may be used for, but is not limited to, the purchase of sterile hypodermic needles and syringes as part of a clean needle and syringe exchange program only if all of the following conditions are met:

(a) The General Fund money used for purchasing the sterile hypodermic needles and syringes does not supplant any other public or private funds or other resources for this purpose.

(b) The amount of the General Fund money used for purchasing the sterile hypodermic needles and syringes does not exceed 7.5 percent of the total amount of the General Fund money received by the public entity for HIV prevention and education.

(c) Each dollar of General Fund money used for purchasing the sterile hypodermic needles and syringes is matched by forty-three cents (\$0.43) of moneys from nonstate public funds or private funds.

(d) The allocation of General Fund money for the purchase of sterile hypodermic needles and syringes is based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS within the department.

SEC. 3. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. The health officer of the participating jurisdiction shall present annually at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs including, but not limited to, relevant statistics on blood-borne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to assure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.